

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

<hr/>		X
SIRI DIAZ, CAROLYN SIEGEL, TALIA	:	
BUMB, BLERTA VIKKI, DANIELLE	:	Case No. 07 Civ. 8718 (RMB)(THK)
OWIMRIN, on behalf of themselves and	:	
all others similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
SCORES HOLDING COMPANY, INC.; GO	:	
WEST ENTERTAINMENT, INC. a/k/a	:	
SCORES WEST SIDE; and SCORES	:	
ENTERTAINMENT, INC., a/k/a SCORES	:	
EAST SIDE,	:	
	:	
Defendants.	:	
<hr/>		X

**DEFENDANTS SCORES HOLDING COMPANY INC.
and GO WEST ENTERTAINMENT, INC.'S STATEMENT OF
UNCONTESTED MATERIAL FACTS PURSUANT TO LOCAL CIVIL RULE 56.1**

Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, Defendants Scores Holding Company Inc. (hereinafter "Scores Holding") and Go West Entertainment, Inc. (hereinafter "Go West") hereby set forth the following material facts as to which Scores Holding and Go West contend there is no genuine issue to be tried, as follows:

1. Scores Holding is a publicly-traded Utah corporation that owns the "Scores" trademarks and related intellectual property, including the trademarks for Diamond Dollars, which function as a system of payment pursuant to the rules of a particular club (Smith Decl.

¶2).¹

¹ See Declaration of Curtis Smith ("Smith Decl.") dated February 1, 2008, which is attached to Defendants' Scores Holding and Go West's Notice of Motion, dated February 1, 2008.

2. Attached as Exhibit A to the Smith Decl. is a true and correct copy of the Master License Agreement that Scores Holding entered into with Entertainment Management Services, Inc. (hereinafter “EMS”) (Smith Decl. ¶ 3).

3. EMS is a New York corporation that is not publicly traded (Smith Decl. ¶ 4).

4. Attached as Exhibit B to the Smith Decl. is a true and correct copy of the Sublicense Agreement that Entertainment Management Services, Inc. entered into with Go West Entertainment, Inc. (Smith Decl. ¶ 5).

5. Go West Entertainment, Inc. (hereinafter “Go West”) is the owner and operator of an adult-entertainment night club and restaurant located at 538 West 28th Street in Manhattan, which has, since on or about March 1, 2004, conducted business under the “Scores” name and is known to the public as “Scores West” or “Scores West Side” (Smith Decl. ¶ 6).

6. Scores Entertainment, Inc. (hereinafter “SEI”) also had a license to use the “Scores” trademarks and operated a nightclub on the east side of Manhattan at 333 East 60th Street under the “Scores” name, but that license and operation ended on September 30, 2003 when SEI was required to turn in its liquor license to the New York State Liquor Authority. SEI has not operated any “Scores” club since September 30, 2003 (Smith Decl. ¶ 7).

7. Pursuant to the Master License Agreement between Scores Holding and EMS and the Sublicense Agreement, Go West pays a royalty based on a percent of its gross revenue for the privilege of using the “Scores” name at its night club and restaurant and on the sale of commercial merchandise such as tee-shirts, sweatshirts, sweat pants, jackets, baseball hats, key rings, and other similar merchandise (Smith Decl. ¶ 8).

8. The license agreements do not authorize or otherwise allow Scores Holding to exercise any control over the terms or conditions for club-level employees or independent

contractors. Nor do the license agreements authorize or allow Scores Holding to have any say in the payroll practices used at the club level. The only provision of the license agreements relating to the operations of a particular club concerns the marketing, advertising and promotional activities involving the use of the Scores trademarks – and this approval requirement is mandated solely to preserve the value, goodwill and reputation of the Scores trademarks (Smith Decl. ¶ 9).

9. Pursuant to the license agreements, Go West and other licensees are permitted to use the Diamond Dollars trademarks. However, the license agreements do not require any specific financial arrangement concerning the use of Diamond Dollars. It is up to the individual club to determine its own rules, practices, and financial incentives for the Diamond Dollars used in that particular club for customers, employees, and independent contractors (Smith Decl. ¶ 10).

Dated: New York, New York
February 1, 2008

Respectfully submitted,

GREENBERG TRAURIG, LLP

By: 

Jerrold F. Goldberg (JG-7471)

Neil A. Capobianco (NC-5262)

200 Park Avenue
New York, New York 10166
(212) 801-9200

*Attorneys for Defendants Scores Holding
Company, Inc. and Go West Entertainment,
Inc. a/k/a Scores West Side*